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10 Attorneys for Plaintiff  
11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT  
13  
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 DEANDRE DONTRELL WILSON,  
DAVID BRIAN LINDSEY,  
19 ASA HOUSTON, and  
DURK BANKS,

20 Defendants.  
21  
22  
23

No. CR 24-621(A)-MWF-2,4,5,6

[PROPOSED] PROTECTIVE ORDER  
REGARDING DISCOVERY CONTAINING  
PERSONAL IDENTIFYING INFORMATION,  
MEDICAL INFORMATION, PRIVACY ACT  
INFORMATION, AND PROTECTED WITNESS  
MATERIALS

24 The Court has read and considered the government's motion for a  
25 Protective Order Regarding Discovery Containing Personal Identifying  
26 Information, Medical Information, Privacy Act Information, and  
27 Protected Witness Materials, filed by the government in this matter,  
28 which this Court incorporates by reference into this order,

1 and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as  
2 follows:

3 1. The government's discovery in this case relates to  
4 defendants' alleged crimes, that is, violations of 18 U.S.C.  
5 § 1958(a): Conspiracy and Use of Interstate Facilities to Commit  
6 Murder-For-Hire Resulting in Death; and 18 U.S.C.  
7 §§ 924(c)(1)(A)(iii), (c)(1)(B)(ii), (j)(1): Use, Carry, and  
8 Discharge of Firearms and Machinegun, and Possession of Such  
9 Firearms, in Furtherance of a Crime of Violence, Resulting in Death,  
10 as to all defendants; and 18 U.S.C. § 922(o): Possession of a  
11 Machinegun, as to defendant KEITH JONES.

12 2. A protective order for the discovery is necessary so that  
13 the government can produce to the defense materials regarding  
14 protected witnesses who participated in the government's  
15 investigation, who may testify at trial, and/or whose safety may be  
16 endangered by disclosure of identifying information. Because these  
17 materials could be used to identify the protected witnesses, the  
18 Court finds that the unauthorized dissemination or distribution of  
19 the materials may expose him/her to potential safety risks and the  
20 danger of witness intimidation.

21 3. A protective order for the discovery is also necessary so  
22 that the government can produce to the defense materials containing  
23 third parties' PII and medical information. The Court finds that  
24 disclosure of this information without limitation risks the privacy  
25 and security of the information's legitimate owners. The medical  
26 information at issue may also be subject to various federal laws  
27 protecting the privacy of medical records, including provisions of  
28 the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.

1 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because  
2 the government has an ongoing obligation to protect third parties'  
3 PII and medical information, the government cannot produce to  
4 defendants an unredacted set of discovery containing this  
5 information without this Court entering the Protective Order.  
6 Moreover, PII and medical information makes up a significant part of  
7 the discovery in this case and such information itself, in many  
8 instances, has evidentiary value. If the government were to attempt  
9 to redact all this information in strict compliance with Federal  
10 Rule of Criminal Procedure 49.1, the Central District of  
11 California's Local Rules regarding redaction, and the Privacy Policy  
12 of the United States Judicial Conference, the defense would receive  
13 a set of discovery that would be highly confusing and difficult to  
14 understand, and it would be challenging for defense counsel to  
15 adequately evaluate the case, provide advice to defendant, or  
16 prepare for trial.

17 4. An order is also necessary because the government intends  
18 to produce to the defense materials that may contain information  
19 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act  
20 Information"). The Court finds that, to the extent that these  
21 materials contain Privacy Act information, disclosure is authorized  
22 pursuant to 5 U.S.C. § 552a(b)(11).

23 5. The purpose of this Protective Order is therefore to  
24 (a) allow the government to comply with its discovery obligations  
25 while protecting this sensitive information from unauthorized  
26 dissemination, and (b) provide the defense with sufficient  
27 information to adequately represent defendants.  
28

1           6.     Accordingly, the discovery that the government will  
2 provide to defense counsel in the above-captioned case will be  
3 subject to this Protective Order, as follows:

4           a.     "Protected Witness Materials" includes any  
5 information relating to any protected witness's prior history of  
6 assistance with law enforcement, prior criminal history, statements,  
7 or any other information that could be used to identify a protected  
8 witness, such as a name, image, address, date of birth, or unique  
9 personal identification number, such as a Social Security number,  
10 driver's license number, account number, or telephone number, or  
11 discovery containing statements made by defendants to law  
12 enforcement that were audio and/or video recorded, summarized in  
13 reports or affidavits, and/or contained in transcripts.

14           b.     "PII Materials" includes any information that can be  
15 used to identify a person, including a name, address, date of birth,  
16 Social Security number, driver's license number, telephone number,  
17 account number, email address, or personal identification number.

18           c.     "Medical Materials" includes any individually  
19 identifiable health information that is connected to a patient's  
20 name, address, or other identifying number, such as a Social  
21 Security number.

22           d.     "Confidential Information" refers to any document or  
23 information containing Protected Witness Materials, PII Materials,  
24 or Medical Materials that the government produces to the defense  
25 pursuant to this Protective Order and any copies thereof.

26           e.     "Defense Team" includes (1) defendants' counsel of  
27 record ("defense counsel"); (2) other attorneys at defense counsel's  
28 law firm who may be consulted regarding case strategy in this case;

1 (3) defense investigators who are assisting defense counsel with  
2 this case; (4) retained experts or potential experts; and  
3 (5) paralegals, legal assistants, and other support staff to defense  
4 counsel who are providing assistance on this case. The Defense Team  
5 does not include defendants, defendants' family members, or any  
6 other associates of defendants.

7 f. The government is authorized to provide defense  
8 counsel with Confidential Information marked with the following  
9 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE  
10 ORDER." The government may put that legend on the digital medium  
11 (such as DVD or hard drive) or simply label a digital folder on the  
12 digital medium to cover the content of that digital folder. The  
13 government may also redact any PII contained in the production of  
14 Confidential Information.

15 g. If a defendant objects to a designation that material  
16 contains Confidential Information, the parties shall meet and  
17 confer. If the parties cannot reach an agreement regarding  
18 defendants' objection, defendants may apply to the Court to have the  
19 designation removed.

20 h. Defendants and the Defense Team shall use the  
21 Confidential Information solely to prepare for any pretrial motions,  
22 plea negotiations, trial, and sentencing hearing in this case, as  
23 well as any appellate and post-conviction proceedings related to  
24 this case.

25 i. The Defense Team shall not permit anyone other than  
26 the Defense Team to have possession of Confidential Information,  
27 including defendant, while outside the presence of the Defense Team.  
28

1           j. Notwithstanding the paragraph above, defendants may  
2 see and review Protected Witness Materials only in the presence of  
3 defense counsel or a designated person (as defined below), and  
4 defense counsel shall ensure that defendants are never left alone  
5 with any Protected Witness Materials. At the conclusion of any  
6 meeting with defendants at which defendants are permitted to view  
7 Protected Witness Materials, defendants must return any Protected  
8 Witness Materials to defense counsel, who shall take all such  
9 materials with counsel. Defendants may not take any Protected  
10 Witness Materials out of the room in which defendants are meeting  
11 with defense counsel. At no time, under no circumstance, will any  
12 Confidential Information be left in the possession, custody, or  
13 control of defendants, regardless of defendants' custody status. If  
14 defense counsel wishes to enable defendants to review Protected  
15 Witness Materials in the presence of any person on the Defense Team  
16 other than defense counsel, defense counsel shall submit a letter to  
17 government counsel of record identifying that person (the  
18 "designated person"), and shall submit a copy of this stipulation  
19 that has been signed by that designated person. Upon receipt of  
20 those materials, if the government, in its sole discretion, finds  
21 the designated person acceptable, prior to the designated person  
22 reviewing any Protected Witness Materials with defendants,  
23 government counsel of record will confirm in writing that defendants  
24 are additionally allowed to review Protected Witness Information in  
25 the presence of the designated person.

26           k. Defendants may review other Confidential Information  
27 (i.e., Confidential Information that is not Protected Witness  
28 Material) only in the presence of a member of the Defense Team, who

1 shall ensure that defendants are never left alone with such  
2 materials. At the conclusion of any meeting with defendants at  
3 which defendants are permitted to view such materials, defendants  
4 must return such materials to the Defense Team, and the member of  
5 the Defense Team present shall take all such materials with him or  
6 her. Defendants may not take any such materials out of the room in  
7 which defendants are meeting with the Defense Team.

8           l. Defendants may see and review Confidential  
9 Information as permitted by this Protective Order, but defendants  
10 may not copy, keep, maintain, or otherwise possess any Confidential  
11 Information in this case at any time. Defendants also may not write  
12 down or memorialize any data or information contained in the  
13 Confidential Information.

14           m. The Defense Team may review Confidential Information  
15 with a witness or potential witness in this case, including  
16 defendant. Defense counsel must be present whenever any Protected  
17 Witness Materials are being shown to a witness or potential witness.  
18 A member of the Defense Team must be present if other Confidential  
19 Information (i.e., Confidential Information that is not Protected  
20 Witness Material) is being shown to a witness or potential witness.  
21 Before being shown any portion of Confidential Information, however,  
22 any witness or potential witness must be informed of, and agree in  
23 writing to be bound by, the requirements of the Protective Order.  
24 No member of the Defense Team shall permit a witness or potential  
25 witness to retain Confidential Information.

26           n. The Defense Team shall maintain Confidential  
27 Information safely and securely, and shall exercise reasonable care  
28 in ensuring the confidentiality of those materials by (1) not

1 permitting anyone other than members of the Defense Team, defendant,  
2 witnesses, and potential witnesses, as restricted above, to see  
3 Confidential Information; (2) not divulging to anyone other than  
4 members of the Defense Team, defendants, witnesses, and potential  
5 witnesses, the contents of Confidential Information; and (3) not  
6 permitting Confidential Information to be outside the Defense Team's  
7 offices, homes, vehicles, or personal presence. Protected Witness  
8 Materials shall not be left unattended in any vehicle.

9           o. To the extent that the Defense Team create notes that  
10 contain, in whole or in part, Confidential Information, or to the  
11 extent that copies are made for authorized use by members of the  
12 Defense Team, such notes, copies, or reproductions become  
13 Confidential Information subject to the Protective Order and must be  
14 handled in accordance with the terms of the Protective Order.

15           p. The Defense Team shall use Confidential Information  
16 only for the litigation of this matter and for no other purpose.  
17 Litigation of this matter includes any appeal filed by defendants  
18 and any motion filed by defendants pursuant to 28 U.S.C. § 2255. In  
19 the event that a party needs to file Confidential Information with  
20 the Court or divulge the contents of Confidential Information in  
21 court filings, the filing should be made under seal. If the Court  
22 rejects the request to file such information under seal, the party  
23 seeking to file such information publicly shall provide advance  
24 written notice to the other party to afford such party an  
25 opportunity to object or otherwise respond to such intention. If  
26 the other party does not object to the proposed filing, the party  
27 seeking to file such information shall redact any Protected Witness  
28 Materials, PII Materials, or Medical Materials, and make all



1 reasonable attempts to limit the divulging of Protected Witness  
2 Materials, PII Materials, or Medical Materials.

3 q. Any Confidential Information inadvertently produced  
4 in the course of discovery prior to entry of the Protective Order  
5 shall be subject to the terms of the Protective Order. If  
6 Confidential Information was inadvertently produced prior to entry  
7 of the Protective Order without being marked "CONFIDENTIAL  
8 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government  
9 shall reproduce the material with the correct designation and notify  
10 defense counsel of the error. The Defense Team shall take immediate  
11 steps to destroy the unmarked material, including any copies.

12 r. If any Confidential Information contains both  
13 Protected Witness Materials and another category of Confidential  
14 Information, the information shall be handled in accordance with the  
15 Protected Witness Materials provisions of the Protective Order.

16 s. Confidential Information shall not be used by  
17 defendants or Defense Team, in any way, in any other matter, absent  
18 an order by this Court. All materials designated subject to the  
19 Protective Order maintained in the Defense Team's files shall remain  
20 subject to the Protective Order unless and until such order is  
21 modified by this Court. Within 30 days of the conclusion of  
22 appellate and post-conviction proceedings, defense counsel shall  
23 return Protected Witness Materials to the government or certify that  
24 such materials have been destroyed. Within 30 days of the  
25 conclusion of appellate and post-conviction proceedings, defense  
26 counsel shall return all other Confidential Information, certify  
27 that such materials have been destroyed, or certify that such  
28

1 materials are being kept pursuant to the California Business and  
2 Professions Code and the California Rules of Professional Conduct.

3 t. In the event that there is a substitution of counsel  
4 prior to when such documents must be returned, new defense counsel  
5 must be informed of, and agree in writing to be bound by, the  
6 requirements of the Protective Order before the undersigned defense  
7 counsel transfers any Confidential Information to the new defense  
8 counsel. New defense counsel's written agreement to be bound by the  
9 terms of the Protective Order must be returned to an Assistant U.S.  
10 Attorney assigned to the case. New defense counsel then will become  
11 the Defense Team's custodian of materials designated subject to the  
12 Protective Order and shall then become responsible, upon the  
13 conclusion of appellate and post-conviction proceedings, for  
14 (1) returning to the government, certifying the destruction of, or  
15 retaining pursuant to the California Business and Professions Code  
16 and the California Rules of Professional Conduct all other  
17 Confidential Information (i.e., Confidential Material that is not  
18 Protected Witness Material); and (2) returning to the government or  
19 certifying the destruction of all Protected Witness Materials.

20 u. Defense counsel shall advise defendants and all  
21 members of the Defense Team of their obligations under the  
22 Protective Order and ensure their agreement to follow the Protective

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Order, prior to providing defendants and members of the Defense Team  
with access to any materials subject to the Protective Order.

IT IS SO ORDERED.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HONORABLE MICHAEL W. FITZGERALD  
UNITED STATES DISTRICT JUDGE

Presented by:

\_\_\_\_\_  
/s/  
IAN V. YANNIELLO  
GREGORY W. STAPLES  
DANIEL H. WEINER  
Assistant United States Attorney